



(Billing Code 5001-06)

**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Part 211**

**[Docket No. DARS-2015-0041]**

**RIN 0750-AI65**

**Defense Federal Acquisition Regulation Supplement: Item Unique Identification Prescription Correction (DFARS Case 2014-D021)**

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to correct the prescription for a clause.

**DATES:** Effective [Insert date of publication in the **FEDERAL REGISTER**].

**FOR FURTHER INFORMATION CONTACT:** Mr. Dustin Pitsch, telephone 571-372-6090.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

This final rule corrects the clause prescription at DFARS 211.274-6(a)(1) to reflect a change that was addressed and

previously published for public comment in the **Federal Register** for proposed rule 2011-D055, Item Unique Identifier Update, on June 15, 2012 (77 FR 35921). The proposed rule presented edits to the prescription for the clause 252.211-7003, Item Unique Identification and Valuation. One of the changes was inadvertently omitted from the final rule, which was published in the **Federal Register** on December 16, 2013 (78 FR 76067). Due to baseline changes that occurred (in DFARS rule 2012-D001) between the time when the proposed rule was published and the final rule was published, the revision from the proposed rule to the clause prescription was not reflected in the publication of the final rule. One of the public comments received in response to the proposed rule was related to the clause prescription. The comment, which recommended inclusion of clarifying text related to "real property," was addressed in the final rule, had no impact on the clause prescription in the final rule, and is inconsequential to the correction being made in this rule.

The correction to the prescription at DFARS 211.274-6(a)(1) for clause 252.211-7003, Item Unique Identification and Valuation, clarifies that the clause is used in solicitations and contracts that include the furnishing of "supplies, and for services involving the furnishing of supplies, unless the exceptions at 211.274-2(b) apply." The current clause prescription does not directly address the exceptions for use of

the clause and instead states that the clause applies to items "that require item identification or valuation, or both, in accordance with 211.274-2 and 211.274-3." This final rule corrects the clause prescription to reflect the changes anticipated by the 2011-D055 proposed rule.

## **II. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

## **III. Regulatory Flexibility Act**

Initial and final regulatory flexibility analyses were previously prepared consistent with the Regulatory Flexibility Act 5 U.S.C. 601, et seq., under the DFARS Case 2011-D055 proposed and final rules, respectively.

#### **IV. Paperwork Reduction Act**

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

#### **List of Subjects in 48 CFR Part 211**

Government procurement.

**Jennifer L. Hawes,**

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 211 is amended as follows:

#### **PART 211—DESCRIBING AGENCY NEEDS**

1. The authority citation for 48 CFR part 211 continues to read as follows:

**Authority:** 41 U.S.C. 1303 and 48 CFR chapter 1.

2. Amend section 211.274-6 by revising paragraph (a)(1) to read as follows:

#### **211.274-6 Contract clauses.**

(a)(1) Use the clause at 252.211-7003, Item Unique Identification and Valuation, in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, for supplies, and for services involving the furnishing of supplies, unless the conditions in 211.274-2(b) apply.

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